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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,288	01/30/2002	David Neil Slatter	30005981-3	2633

7590 08/20/2003  
HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

PUNNOOSE, ROY M

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 08/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/058,288

Applicant(s)

SLATTER, DAVID NEIL

Examiner

Roy M. Punnoose

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

## DETAILED ACTION

### *Drawings*

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markus et al (US 5,440,396) in view of what is commonly known in the art.

A. Claim 1 is rejected because, Markus et al (Markus hereinafter) discloses a measurement apparatus for measuring at least one parameter of an object or area, the measurement apparatus comprising one or more imaging 35 and display 38 devices for creating a three-dimensional image and displaying an image of said object or area, mapping apparatus (see col.2, lines 43-44) for mapping a virtual shape onto said image and substantially matching said shape to said object or area (see col.2, lines 29-61), to

determine from said image at least one parameter of said object or area, said parameter comprising at least one of a length, surface area or volume of said object or area.

However, Markus does not explicitly disclose the creation of a three-dimensional map to determine from said image at least one parameter of said object or area, said parameter comprising at least one of a length, surface area or volume of said object or area.

- B. It is commonly known in the art that a map can be produced from an image to determine from said map at least one parameter of said object or area, said parameter comprising at least one of a length, surface area or volume of said object or area.
- C. In view of what is commonly known in the art, it would have been obvious to one of ordinary skills in the art at the time the invention was made to substitute an image with a map of an object or area in Markus' apparatus due to the fact that such a system would provide an alternate method to determine from said image at least one parameter of said object or area, said parameter comprising at least one of a length, surface area or volume of said object or area. Accordingly, such substitution would have constituted an alternative means/obvious engineering expedience for one of ordinary skill in the art at the time the invention was made.

4. Claims 2, 8 are rejected because Markus teaches the use of selection apparatus (see col.2, lines 43-44).

5. Claims 3, 9 are rejected because matching apparatus is inherent in Markus' apparatus (see col.2, lines 41-50).

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6. Claims 4, 5, and 10 are rejected because Markus teaches the user controllable alteration/adjustment of one or more of the size/angle/pitch (see col.3, lines 27-34; col.6, lines 32+).
7. Claims 6 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markus et al (US 5,440,396) in view of Win et al (US 4,730,190).
  - A. Claims 6, 11 and 15 are rejected because Markus teaches all claim limitations as disclosed above except for the explicit teaching of one or more calculation devices to determine at least one parameter of said object or area, said parameter comprising at least one of a length, surface area or volume of said object or area.
  - B. Win et al (Win hereinafter) discloses a calculation device (see abstract) to determine at least one parameter of said object or area, said parameter comprising at least one of a length, surface area or volume of said object or area.
  - C. In view of Win's teachings, it would have been obvious to one of ordinary skills in the art at the time the invention was made to incorporate a calculation device into Markus' apparatus due to the fact that such a system would consolidate calculation and other functions into a single device unit to determine at least one parameter of said object or area, said parameter comprising at least one of a length, surface area or volume of said object or area. Accordingly, such incorporation would have constituted an alternative means/obvious engineering expedience for one of ordinary skill in the art at the time the invention was made.
8. Claims 12 and 13 are rejected because image manipulation apparatus is inherent in Markus' apparatus (see col.2, lines 41-50).

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9. Claim 14 is rejected because shape-matching apparatus is inherent in Markus' apparatus (see col.2, lines 41-50).

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Examiner Roy M. Punnoose** whose telephone number is **703-306-9145**. The examiner can normally be reached on 9:00 AM - 5:30 PM.

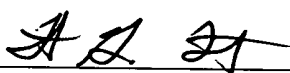
If attempts to reach the examiner by telephone are unsuccessful, the applicant can reach his **Supervisory Patent Examiner, Frank G. Font**, at (703) 308-4881.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-0530.

**Roy M. Punnoose**  
Patent Examiner  
Art Unit 2877  
July 28, 2003



  
**Mr. Frank G. Font**  
Supervisory Patent Examiner